

Petroleum Storage Tank Trust Fund Claims Packet

State of Utah
Utah Department of Environmental Quality
Division of Environmental Response and Remediation
Underground Storage Tank Branch
Petroleum Storage Tank Trust Fund Section
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Salt Lake City, Utah 84114-4840
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TDD: (801) 536-4414

**All forms are available on the DERR Website at:
www.undergroundtanks.utah.gov/leakingtanks/pst.htm**

January 11, 2005

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Introduction

The Utah Department of Environmental Quality (UDEQ), Division of Environmental Response and Remediation (DERR), established the Petroleum Storage Tank Trust Fund (PST Fund) to help underground storage tank (UST) owners/operators meet U.S. Environmental Protection Agency financial assurance requirements and to help pay the costs of investigation, abatement, and remediation of releases from leaking underground storage tanks (LUSTs).

This information packet summarizes the procedures and requirements for obtaining PST Fund assistance for the investigation and remediation of releases from PST Fund covered LUSTs. This information packet is not all-inclusive. Therefore, one should review the Underground Storage Tank Act 19-6-401 and the Underground Storage Tank Rules R311 for more detailed information.

PST Fund Eligibility

Known or suspected releases (leaks) from petroleum UST systems (USTs, associated piping, and dispensers) must be reported to the DERR within 24 hours of occurrence at (801) 536-4100.

To be eligible for reimbursement from the PST Fund, the UST system must have a valid Certificate of Compliance and must be covered by the PST Fund at the time of the release.

A “PST Fund Eligibility Application” (see form A) or claim must be received by the DERR during the period under which the UST system was covered by the PST Fund, or within one year after the UST system was properly closed, or within six months after the end of the period under which the UST was covered by the PST Fund. Following the review of your application or claim, the DERR will provide you with written notification regarding your eligibility for reimbursement from the PST Fund. There are time constraints provided by law that may cause an otherwise eligible release to become ineligible. Therefore, it is important to file your PST Fund Eligibility Application promptly.

PST Fund Coverage

Releases that occurred and were reported after July 1, 1994 have a \$10,000 deductible. Releases that occurred and were reported before July 1, 1994 have a \$25,000 deductible. With a \$10,000 deductible, the PST Fund may reimburse up to \$990,000 (\$490,000 for non-marketer facilities) of the investigation and remediation costs.

All costs, including the deductible amount, must be for customary, reasonable, and legitimate work, as determined by the DERR. Expenses that are eligible for reimbursement from the PST Fund include costs for vapor abatement, subsurface investigation, site assessment, monitoring, corrective action, and provision for alternative drinking water supplies. Expenses that are not eligible for reimbursement by the PST Fund include costs to achieve compliance with UST system leak detection requirements, upgrading of an UST system, removal or installation of an UST system, loss of business, and legal fees.

If a facility has a current PST Fund-eligible release and a subsequent PST Fund-eligible release

occurs at that facility, the PST Fund allowable coverage for the subsequent release will be limited to the amount required to investigate and remediate only the subsequent release. Additional PST Fund monies cannot be obtained for the investigation/remediation of the original release through the coverage of a subsequent release, i.e., the maximum coverages for each release cannot be aggregated. The DERR will determine the proportionate coverage based on the magnitude of each individual release. In addition, a \$10,000 deductible will apply to the subsequent release.

Environmental Consultants and Subcontractors

Environmental consultants overseeing and directing work at LUST sites must be a Utah-Certified UST Consultant in accordance with UST Rule R311-201-2. The Certified UST Consultant must have a current and approved PST Fund Statement of Qualification (SOQ) on file with the DERR in accordance with UST Rule R311-207-3. Consulting firms must update their SOQs yearly and the SOQs must be approved by the DERR before PST Fund money is expended.

Environmental consultants must obtain a minimum of three (3) bids from qualified subcontractors for subcontracted work (drillers, excavation contractors, etc.) in accordance with UST Rule R311-207-4(e). The requirement to obtain 3 bids for subcontracted work is waived if the subcontracted work is expected to cost, and actually does cost, less than \$1,000.

Work Plans and Budgets

Work plans and budgets for work required to investigate and remediate a release must be pre-approved by the DERR and the claimant before the work is performed (see Work Plan Approval Application and Agreement Form B). To expedite this process, it is highly recommended that the environmental consultant submit a draft work plan/budget to the DERR for review prior to sending a final to the claimant for approval.

If the claimant does not want to sign a Work Plan Approval Application and Agreement form for each individual work plan/budget, the claimant may complete and sign one form that will cover all subsequent work plans with the same environmental consultant. However, the claimant must submit a cover letter with the form to document that this is what they want to do. This authorization will remain in effect until the claimant notifies the DERR otherwise in writing.

An approved work plan may be changed and the budget may be exceeded only after obtaining approval from the DERR. Emergency work (work that prevents or abates substantial danger to the public health or the environment) can be approved verbally, with a written follow-up submitted within 48 hours requesting an amendment and explaining the need for the change in the scope-of-work and budget.

Reimbursement amounts are determined by the actual time and material costs expended for the work, up to but not exceeding the approved budget amount for each task.

PST Fund Reimbursement Claim Documentation

In accordance with UST Rule R311-207-4, all expenses shall be documented on a monthly basis and be submitted on the “Standardized Invoice” (see Form C) or equivalent. Information from invoices must be compiled on the PST Trust Fund/Request for “Payment Voucher” (see Form D). PST Fund Reimbursement Claims that do not comply with UST Rule R311-207 will be returned to the claimant for correction. The costs for correction of claims will not be reimbursable by the PST Fund. Requests for PST Fund reimbursement must be received by the DERR within one year of the date that the work was performed or reimbursement will be denied.

The following information is required for PST Fund reimbursement:

- Employee name, labor category (e.g., P102-Project Geologist or P104-Field Geologist, etc.), date of work, task or description of work (e.g., groundwater sampling, operation and maintenance, report preparation, etc.), hourly labor rate, and the number of hours spent on each task;
- Laboratory analytical costs;
- Equipment rental and materials costs;
- Utility costs;
- Other direct costs;
- Invoices from general contractors, subcontractors, and suppliers with a work description and listing of price and quantity of labor, equipment, and materials used; and,
- Proof of payment. If reimbursement is to be made to the owner/operator, proof of payment to the consultant must be provided. If reimbursement is to be made directly to the consultant, then proof of payment to the consultant’s subcontractors and suppliers is required. Proof of payment may be in the form of canceled checks, lien waivers, or affidavits from the entity that is owed the money (see Form E). UST owners/operators are primarily liable for all costs incurred and should obtain lien releases/waivers from the companies, contractors, and subcontractors providing materials or performing services associated with the release.

Third Party Claims

If a third party claim resulting from the release is brought against you, or if any action or situation is likely to result in a third party claim, you must immediately report it to the Utah Department of Administrative Services, Risk Manager at (801) 538-9560 and to the DERR Project Manager.

PST Trust Fund Eligibility Application Form

Utah Department of Environmental Quality
Division of Environmental Response and
Remediation

**Petroleum Storage Tank (PST) Trust Fund
Section**

Were tanks in compliance when leak was detected?
Yes No

LUST Release Number
(if issued)

Facility ID Number

Tax ID Number

Applicant Name (please print)

Signature

Date

Mailing Address

City

State

Zip

Telephone
()

Applicant is a:

Tank System Owner

Facility Owner

Tank System Operator

Land Owner (Must demonstrate authority to file claim)

If the tank system owner or operator, the facility owner, or owner of the land on which the tank system is located is different than the applicant shown above, complete the appropriate spaces in this portion of the form.

Tank System Owner
Land Owner

Facility Owner

Tank System Operator

Mailing Address

Telephone

Dates of Ownership

From

To

Name of facility where the release occurred:

Facility Address:

Contact person at the facility:

Telephone
()

Date Release occurred or was discovered:

Date release was reported to the DERR:

Number of tank systems that contributed to the release at the site (attach additional sheets if needed).

| Tank Number | Tank Volume | Product | Installation/Closure Date |
|--|-------------|---------|---------------------------|
| | | | |
| <p>Is this release covered under independent insurance?</p> <p>Yes (if yes, please submit a copy of your insurance policy) No</p> | | | |
| <p>Number of tank systems that were or will be removed during the course of this site cleanup?</p> | | | |
| <p>How was the release confirmed? (Attach a brief summary that includes laboratory analysis, field instrument readings, visual observations, tank tightness test results, etc.)</p> | | | |
| <p>Is there evidence of a previous release? If so, describe how the release was determined.</p> | | | |
| <p>Was the release caused by a third party? If so, explain the circumstances and provide the name, address, and telephone number of the third party and the third party's insurance company.</p> | | | |
| <p>Have you received any reimbursement or offers of reimbursement from a third party or a third party's insurance company? If so, how much and when was it received?</p> | | | |
| <p>Have you signed a release? Utah Code Ann. 19-6-426(7) prohibits responsible parties from doing anything that may prejudice the right of the State to recover from third parties.</p> | | | |

Petroleum Storage Tank Trust Fund

Work Plan Approval Application and Agreement

Work Plan No. _____, Amendment No. _____

Facility Name: _____

Address: _____

Facility ID No.: _____

Release ID: _____ ("Release")

Owner/Operator, responsible party, or other person seeking PST Trust Fund Reimbursement:
_____ ("Claimant")

Utah-Certified UST Consultant: _____ ("Contractor")

In submitting Work Plans _____ and amendments thereto for the above referenced Release _____ for approval, the Claimant and the Contractor collectively, the "Parties," represent and agree to the following:

Definitions:

"Contractor" means the person identified as such above.

"Claimant" means the person identified as such above.

"Parties" means Claimant and Contractor.

"Executive Secretary" means the Executive Secretary (UST) of the Utah Solid and Hazardous Waste Control Board.

"PST Fund" means the Petroleum Storage Tank Trust Fund.

"Release" means the release identified above.

"State" means the State of Utah including its agencies, officers, employees, volunteers and specifically, the Division of Environmental Response and Remediation (DERR), the Executive Secretary (UST) of the Utah Solid and Hazardous Waste Control Board, and the Petroleum Storage Tank Trust Fund.

"Work Plan" means the work plan identified above.

1. The key personnel, for which qualifications are submitted under R311-207-3(c), are:

2. The Claimant acknowledges that the Claimant is required to obtain a payment bond from the Contractor under Section 14-2-1 of the Utah Code. If the Claimant fails to do so, the Claimant is

liable to each person who performed labor or services or supplied equipment or materials ("Subcontractors") in the event the Contractor does not pay the subcontractors, even if the Claimant has paid the Contractor (Utah Code Section 14-2-2). The Claimant acknowledges and agrees that the PST Fund will not reimburse the Claimant for such Subcontractors' claims for payment against the Claimant if the PST Fund has already made payment to the Claimant or Contractor. The Claimant understands that the premium paid for a payment bond is reimbursable. Therefore, the Claimant:

- a. Has required the Contractor to obtain 100 percent payment bond through a United States Treasury-listed bonding company, and attached a copy, or;
- b. Has obtained other equivalent assurance and waives all claims and remedies against the State if the equivalent assurance does not adequately protect the Claimant.
The equivalent assurance is described as follows:

3. The Parties agree that the Contractor shall have no cause of action against the State for payment. The Parties acknowledge and agree that the State is not a party to any contract with the Claimant or the Contractor for reimbursement from the PST Fund in the execution of this Work Plan, except to the extent provided by a contract signed by the Executive Secretary (UST). Instead, the Claimant's reimbursement is governed by the Utah Underground Storage Tank Act and the Utah Underground Storage Tank Rules. The Contractor is entitled to reimbursement solely under his/her contract with the Claimant.
4. The Parties agree that they will use a subcontracting method consistent with the requirements of R311-207.
5. The Parties agree that, as a condition of performing the work under the work plan, the Contractor shall carry the insurance specified in R311-207-3(c)(4). The Contractor represents that the Certificate of Insurance documenting the required insurance is attached or that a current certificate is on file with the Executive Secretary (UST) and has been provided to the Claimant. The Parties assume the risk and responsibility of ensuring that the appropriate insurance coverage is in place.
6. The Parties agree that payments from the PST Trust Fund shall be limited to amounts that are customary, legitimate, reasonable and consistent with R311-207. Unless the Parties and the Executive Secretary (UST) have entered into a written Pay-for-Performance agreement, the Parties acknowledge that payments will be for actual time and materials expended up to, but not exceeding, the amount of the Executive Secretary (UST) approved work plan and Executive Secretary (UST) approved change orders, if any.
7. The Parties shall maintain financial and operation records in sufficient detail to document all transactions relating to PST Fund reimbursement for the execution of this work plan. The Parties shall make available for audit and inspection all such records relating to the completion of the work plan and related services, requirements, and expenditures until all audits initiated by State auditors

are completed, or for a period of five years from the date of PST Fund reimbursement related to the execution of this work plan. Records which relate to disputes, litigation, or the settlement of claims arising out of the performance of this work plan, or to cost and expenses of this work plan as to which exception has been taken by the Executive Secretary (UST), shall be retained by the Parties until disposition has been made of such disputes, litigation, claims, or exceptions.

8. The Parties certify that there is a contract between the Claimant and the Contractor for the performance of work under the work plan for which approval is sought ("Contract") and incorporate the provisions herein into that Contract. To the extent that the Contract or amendments thereto conflict with any provisions herein, the provisions herein govern. The Parties shall provide the Contract to the Executive Secretary (UST) upon request.
9. The Executive Secretary (UST) is a third party beneficiary of this Petroleum Storage Tank Trust Fund Work Plan Approval Application and Agreement and may enforce its provisions.
10. This Petroleum Storage Tank Trust Fund Work Plan Approval Application and Agreement does not limit the Executive Secretary's (UST) rights and remedies under applicable law.

Contractor _____
Signature, Printed Name, and Date

Claimant _____
Signature, Printed Name, and Date

UTAH STATE PETROLEUM STORAGE TANK TRUST FUND/REQUEST FOR PAYMENT VOUCHER

Summary Worksheet

Project Manager: _____

Date: _____

| | | | | | |
|---|--|--|--|---|--|
| SUBMITTED BY: PAYEE: _____ ADDRESS: _____ TYPE OF BUSINESS: SOLE PROPRIETOR _____ PARTNERSHIP _____ CORPORATION _____ FED TAX ID # OR SS # _____ | | RELEASE NUMBER: _____ FACILITY NUMBER: _____ SITE NAME: _____ SITE LOCATION: _____ PHONE: _____ | | BILL TO: UTAH DEPT. OF ENVIRONMENTAL QUALITY DIV. OF ENVIRONMENTAL RESPONSE & REMEDIATION PO BOX 144840 SALT LAKE CITY, UTAH 84114-4840 PHONE NO. (801) 536-4100 | |
|---|--|--|--|---|--|

| DATE | WORK PLAN | SERVICES RENDERED/DESCRIPTON-MUST INCLUDE COPIES OF INVOICES, CHECKS & DETAILED BACK-UP DOCUMENTATION | INVOICE # | AMOUNT |
|------|-----------|---|-----------|--------|
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I, the undersigned, certify that the above listed items or services were required for and used at this site, that the charges appearing hereon are correct, and that no part of the same has been paid for by the PST Fund. The presentation of a claim based on materially false information is subject to criminal penalties. Utah Code Ann. § 19-6-429.

| | | | | | |
|--|------|---|--------|---|--------|
| | | | | TOTAL SUBMITTED: \$ | |
| SIGNATURE OF RESPONSIBLE PARTY _____ DATE _____ NOTE: Signatures of BOTH Responsible Party AND Consultant required for Direct Reimbursement to the Consultant. Only one signature required for reimbursement to owner. | | SIGNATURE OF CONSULTANT FOR PROJECT _____ DATE _____ <div style="border: 1px solid black; padding: 5px; margin: 10px 0;">CLAIM # 1</div> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;">PMT #</div> | | LESS DISALLOWED COSTS: _____ SUB-TOTAL APPROVED: \$ _____ LESS DEDUCTIBLE: \$ _____ TOTAL TO REIMBURSE: \$ _____ | |
| STATE USE: | | | | | |
| | | | | | |
| PROJECT MANAGER | DATE | ACCOUNTANT | DATE | EXECUTIVE SECRETARY | DATE |
| | | | | | |
| PST SECTION MANAGER | DATE | MSC | DATE | DEQ/FINANCE | DATE |
| Voucher.xls | | REV DATE: 06/24/03 | | FINANCIAL CODING | |
| | | FUND | AGENCY | LOW ORG | APPR |
| | | 731 | 480 | 4731 | 731 |
| | | 6137 | 4XXX | | |
| | | PROJECT NO./SUB-PRO | | | AMOUNT |
| | | | | | \$ |



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF ENVIRONMENTAL
RESPONSE AND REMEDIATION
Brad T Johnson
Director

OLENE S. WALKER
Governor

GAYLE F. McKEACHNIE
Lieutenant Governor

ERRL-FORM-LTR

May 27, 2004

To Whom It May Concern:

Utah Petroleum Storage Tank Rule R311-207-4(d) of the Utah Admin. Code requires that: "for time and material based reimbursement, before receiving payment from the Petroleum Storage Tank Trust Fund, the responsible party must provide proof of past payments for services or construction rendered, in a form acceptable to, or as directed by, the Executive Secretary (UST), unless the Executive Secretary (UST) has agreed to other arrangements."

The Executive Secretary (UST) has determined that in lieu of providing a canceled check, the responsible party may instead provide a copy of the invoice and an affidavit from the contractor (consultant) indicating that the responsible party has executed a promissory note agreeing to pay the full amount of the invoice. The affidavit must be on the attached form and cannot be substantively altered.

If the consultant has used subcontractor services, the attached lien waiver must also be submitted with the affidavit.

Sincerely,

Brad T Johnson, Executive Secretary (UST)
Utah Solid and Hazardous Waste Control Board

BTJ/SKA/srb

Enclosures

Utah Petroleum Storage Tank Trust Fund

AFFIDAVIT: PROOF OF PAYMENT

This form should be used when a claimant submits an affidavit from the consultant as proof of payment for costs claimed for reimbursement. See R311-207-4(d) Utah Admin. Code

Claimant's Name _____

Site Name and Address _____

Facility Identification No. _____ Release Site _____

STATE OF UTAH)

: ss

COUNTY OF _____)

I, being first duly sworn upon oath and being of lawful age, state that the following invoices relative to the referenced application for reimbursement from the Utah Petroleum Storage Tank Trust Fund have been paid in full through the execution of a promissory note by the claimant.

| INVOICE # | INVOICE DATE | AMT. PAID | INVOICE # | INVOICE DATE | AMT. PAID |
|-----------|--------------|-----------|-----------|--------------|-----------|
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I further state that there is no relationship or affiliation between myself and the claimant.

I hereby certify that the foregoing information is correct to the best of knowledge, information, and belief. I understand there are severe civil and/or criminal penalties for any false statement or misrepresentation of a material fact, knowing it to be false, or failing to disclose a material fact with the intent to defraud.

| | | | |
|-------------------------------------|--------|--------|--|
| Signature: | | Date: | |
| Print Name: | Title: | Phone: | |
| Consultant Company Name: | | | |
| Consultant Company Mailing Address: | | | |

Subscribed and sworn to before me in the county of _____, Utah, this ____ day of _____ (month), _____ (year). My commission expires _____.

Notary Public Signature

SUBCONTRACTORS'/MATERIALMENS' LIEN WAIVER

For valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the undersigned Subcontractor/Materialman having performed services or furnished materials for that certain project known as _____, located at _____, hereby releases, relinquishes, and waives any and all mechanic's liens, materialman's liens, and all other liens of every nature and kind, and/or the right to file any such lien, against said project for labor, services, equipment, and material supplied and performed through _____, 200____.

The undersigned certifies that:

1. Full payment, less retainage if any, has been received for all invoices submitted through _____, 200____; and
2. The undersigned has paid all of its subcontractors for work and services performed and all of its materialmen for materials furnished to said date.

DATED this _____ day of _____, 200_____.

Authorized Representative of :
